

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Catherine L. Bell on 7/27/2010.

The application has been amended as follows:

Claim 43

Lines 4 and 5, delete "discrete ionic activator, and Lewis acid", replace with "boron compounds, hexafluoro phosphorus compounds, hexafluoro antimony compounds, and hexafluoro arsenic compounds".

Claims 41, 43-56, 64 and 65 are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(B), claims 57-63 and 66, directed to the process of making or using an allowable product, previously withdrawn from consideration as a result of a restriction requirement, are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, **the restriction requirement as set forth in the Office action mailed on 10/7/2005 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim

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presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

***Allowable Subject Matter***

Claims 41 and 43-66 are allowed.

The following is an examiner's statement of reasons for allowance: With respect to independent claim 43, none of the prior art fairly teaches or suggest a catalyst system comprising an activator from the selected groups in combination with a catalyst precursor as claimed that contains a bidentate ligand with both nitrogen and phosphorus donating atoms for use in either oligomerization or polymerization of olefins. It is noted that catalyst precursors are taught in the art, but not in combination with the specifically selected precursors, or for use in polymerization/oligomerization reactions, and there is no motivation to make such a combination, nor is there any expectation of success. As such the independent claim 43 is seen as novel and non-obvious over the prior art, and is deemed allowable. With respect to the dependent claims they are found to be allowable at least for the reasons above and in further view of their additional limitations.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES E. MCDONOUGH whose telephone number is (571)272-6398. The examiner can normally be reached on 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (571)272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J.A. LORENZO/

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